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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,746	03/02/2001	Dominique Paul Gerard Claessens	B0 41853	5010

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EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,746

Applicant(s)

CLAESSENS, DOMINIQUE PAUL
GERARD

Examiner

Joseph G. Ustaris

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 15 November 2005 in application 09/720,746. Claims 7-2 are pending.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 November 2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-10, 12-15, 17-20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Claessens (WO 97/38624).

Regarding claim 7, Claessens discloses a method for measuring and processing data in reaction to stimuli. The data is obtained by “the confrontation of respondents with visual stimuli” (See Fig. 2 and 3, presentation unit; page 3 lines 9-18, page 17 lines 24-39), e.g. advertisements and/or magazine pages. The advertisements and/or

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magazine pages or "stimuli" are subdivided in "at least two distinguished attention areas" (See page 17 lines 24-39 and page 18 lines 15-16 and 34-38), e.g. the three advertisement elements of an advertisement or different quadrants or smaller sections per magazine page. The data also represents "the time during which the attention of a respondent was directed to a specific attention area of a specific one of the stimuli" (See page 17 line 24-39 and page 19 lines 1-17), e.g. the time the respondent spends looking at each of the advertisement elements of an advertisement or the time the respondent spends looking at each quadrant or smaller sections per magazine page. The system "accumulates data received from a number of respondents and related to one specific stimulus" (See page 10 lines 6-21) and are "subdivided into sets of data each related to one of said attention areas of said one stimulus" (See page 10 lines 15-21 and page 18 lines 15-16), e.g. the processed data represents data per stimulus and per stimulus item or advertisement elements of an advertisement or magazine advertisement pages. Based on the data "it is determined how many respondents have paid attention to a specific one of said attention areas" (See page 17 lines 24-39 and page 19 lines 1-17). The results from above are then "added in a predefined manner to obtain a total score for the respective stimulus" (See page 19 lines 18-28). The data "represents the time during which the attention of a respondent was directed to a specific stimulus" (See page 17 lines 24-39 and page 19 lines 1-17), e.g. the time the respondents are looking at an advertisement or the time the respondent spends looking at each quadrant or smaller sections per magazine page. Furthermore, the data represents "the number of times the respondent fixed that respondent's gaze at the

specific attention area of the specific stimulus" (See page 17 lines 24-39), e.g. the number of times the respondent fixated on each quadrant or smaller section per magazine page.

Regarding claim 8, the advertisement or "stimulus" has "three distinguished attention areas" (See Claessens page 10 lines 30-38; page 18 lines 15-16 and 35-38).

- Regarding claim 9, the "three distinct areas" are brand, visual or "image information", and text or "textual information" (See Claessens page 10 lines 30-38; page 18 lines 15-16 and 35-38).

Regarding claim 10, Claessens discloses that based on the data it is determined "how many respondents have paid attention to the brand name or logo and to the image information and to the textual information" (See Claessens page 19 lines 1-17).

Claessens also discloses that various measurements can be made to create various data, i.e. record the number of respondents that fixated one, two, or three of the advertisements elements or "how many respondents have paid attention only to the brand name or logo" and "how many respondents have paid attention to the brand name or logo and to the image information" (See Claessens page 18 lines 15-16 and 35-38). Claessens also discloses that various measurement reports can be created from the data (See Claessens page 11 lines 14-23).

Regarding claims 12-15, the results are "expressed in percentages" (See Claessens page 19 lines 2-3, 11-12, 21-22).

Regarding claims 17-20, the data represents the amount of respondents who spend between 60-1000 ms fixated on the advertisement elements, where inherently

any "time period the attention was paid to one of the attention areas is less than a predetermined time value the respective data is removed from further processing", in order to maintain accurate measurements (See Claessens page 19 lines 1-17).

Claim 22 contains the limitations of claim 7 and is analyzed as previously discussed with respect to that claim.

Claim 23 contains the limitations of claims 8 and 22 and is analyzed as previously discussed with respect to those claims.

Claim 24 contains the limitations of claims 9 and 23 and is analyzed as previously discussed with respect to those claims.

Claim 25 contains the limitations of claims 10 and 24 and is analyzed as previously discussed with respect to those claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 16, 21, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claessens (WO 97/38624) in view of Carles (US005661516A).

Claim 11 contains the limitations of claims 7-10 and is analyzed as previously discussed with respect to those claims. However, Claessens does not disclose that each result is "multiplied by a predetermined weighting factor".

Carles discloses a method of processing data in order to target advertisements/commercials. Carles discloses that various variables or data is used in determining the score of the advertisement. Each variable is "multiplied by a predetermined weighting factor" and then added to obtain the total score (See column 5 lines 19-65). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the process disclosed by Claessens to "multiply each result by a predetermined weighting factor before being added into the total score", as taught by Carles, in order to provide a means of prioritizing the various data thereby providing customized statistics for the user.

Claim 16 contains the limitations of claims 5 and 11 and is analyzed as previously discussed with respect to those claims.

Claim 21 contains the limitations of claims 6 and 11 and is analyzed as previously discussed with respect to those claims.

Claim 26 contains the limitations of claims 11 and 25 and is analyzed as previously discussed with respect to those claims.

Response to Arguments

4. Applicant's arguments with respect to claims 7-26 have been considered but are moot in view of the new ground(s) of rejection.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JGU
February 1, 2006



VIVEK SRIVASTAVA
PRIMARY EXAMINER